

Application No. 09/871,823
Amendment dated July 13, 2004
Reply to Final Action dated May 27, 2004

Remarks/Arguments

Claims 1-8 have been cancelled without prejudice to the filing of these claims in a separate application. Claims 9 and 28 have been amended. No changes were made to claims 10 -27, and 29 -42. Claims 26, 27 and 29 - 42 were previously allowed by the Examiner. Claims 9 - 42 remain in the application.

A Request for Continued Examination (RCE) is being filed under separate cover on today's date.

Applicant takes this opportunity to thank the Examiner for the Telephone interview of July 5, 2004.

The Examiner rejected claims 1 - 5, 7 and 8. Claims 1-8 have been cancelled rendering the Examiner's rejection moot. Applicant requests that the rejection of claims 1, 2, 4 and 5 under 35 USC 102(b), and the rejection of claims 3, 7 and 8 under 35 USC 103(a) be withdrawn.

The Examiner rejected claims 9 -12, 14, 16 -19, 21, 22, 24, 25 and 28 under 35 USC 103(a) as being obvious in view of the combination of USP 4,874,500 to Madou et al. and of USP 4,225,410 to Pace. As discussed during the interview with the Examiner on July 5, 2004, claims 9 and 28, as amended, distinguish over the combined teachings of the cited art. Claims 10 - 25 directly or indirectly depend from claim 9 and are thus no broader in scope than claim 9. As a result, Applicant submits that dependent claims 10-25 also distinguish over the cited art.

Amended claim 9 defines a diagnostic card device in which the electrode module is mounted to the card housing in such a way that the conductor elements are "exposed for external electrical contact on the first side of the insulating layer". This is distinct from the combined teachings of both Madou et al. and Pace. Pace discloses the general concept of enclosing a sensor in a housing for ease of handling of a liquid sample, but does not disclose an electrode module as defined in the claim. Madou et al. discloses an electrode module having an insulating layer, a membrane element and conductor elements. Madou et al. further discloses

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embodiments in which the electrode module is mounted to another structure. However, in all those embodiments the conductor elements on the insulating layer are covered by another insulating or substrate layer blocking external access to the conductor elements. In contrast, amended claim 9 is directed to a diagnostic card device in which the conductor elements of the electrode module mounted to the card housing are "exposed for exterior electrical contact on the first side of the insulating layer" Pace and Madou et al. , whether taken alone or in combination, neither disclose nor suggest a diagnostic card structure as defined in amended claim 9. As acknowledged by the Examiner during the phone interview, the conductor elements of the electrode module in the diagnostic card device of amended claim 9 are exposed on one of the sides of the insulating layer for external electrical contact, while no such exposure is taught, or taught towards, in either Pace or Madou et al. Consequently, Applicant respectfully submits that claim 9 as currently amended is directed to subject matter that is distinguished over the cited art. Consequently, Applicant respectfully requests that the rejection of claims 9 -12, 14, 16 -19, 21, 22, 24 and 25 under 35 USC 103(a) be withdrawn.

Claim 28 was rewritten in independent form. Claim 28 was further amended to include language similar to that of claim 9, in order to specify that the conductor elements are "exposed for exterior electrical contact on the first side of the insulating layer". Applicant reiterates the above explanation distinguishing the matter of claim 9 from the prior art and re-applies it to claim 28. Consequently, the subject matter of claim 28 is also distinguished from the combined teachings of Pace and Madou et al. Applicant respectfully requests that the rejection of claim 28 under 35 USC 103(a) be withdrawn.

Independent claim 1 and dependent claims 2 - 8 have been deleted, while dependent claim 28 was rewritten in independent form. Thus, there are presently 4 independent claims and 34 claims in total pending in the application and neither independent nor dependent claims were added. As the number of claims overall has been reduced, and the number of independent claims has remained constant, Applicant submits that no fee for the addition of claims is required.

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No fee is believed due for this submission. However, Applicant authorizes the Commissioner to debit any required fee from Deposit Account No. 501593. The Commissioner is further authorized to debit any additional amount required, and to credit any overpayment to the above-noted deposit account

Applicant submits that the application is now in condition for allowance and earnestly solicits action to that end.

Respectfully submitted,
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